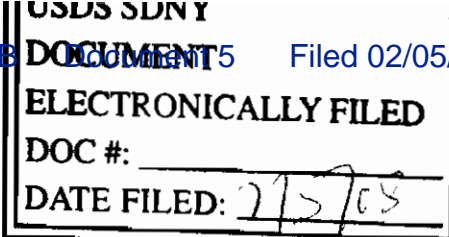




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HAROLD BAER
U.S. DISTRICT JUDGE
S.D.N.Y.

January 30, 2008

Hon. Harold Baer, Jr.
500 Pear St. Chambers 2230
New York, NY 10007

Re: Kaplan, Inc. v. Chang, et al. 07CV10677

Dear Judge Baer:

I write to request that the PTC scheduled for February 7, 2008, be deferred for at least 30 days. The two defendants that have been located to date both consent. I spoke to Natalie of your chambers, and she suggested I fax this letter.

This action challenges copyright infringement over the Internet by persons who are trying very hard to avoid identification. After extensive investigation, we named several defendants. Last week one defendant agreed to accept mail service and a second learned of our service efforts and contacted us.

The first of these two defendants has represented that he was not personally involved but knows who was and can provide details. Yesterday we entered a written agreement with him under which he is to provide that information and, if it checks out, we are to release him without prejudice. At that time, we likely would need to amend the Complaint to add the newly identified infringer(s) and make service.

The second defendant, who learned of our service efforts on Tuesday of this week, contacted us through counsel (who appeared to be acting as a courtesy). His counsel represents his client is the victim of appearance and coincidence, and says his client is willing to offer details to support that claim. We want the information from the first defendant before we question the second. We had reason to name him but, if he was not involved, we will take prompt corrective action.

In these circumstances, we believe it would be more efficient to defer the PTC until matters have clarified.

Very truly yours,

Thomas W. Kirby
Pro hac vice
Counsel for Plaintiff

12787747.

2/4/08
adjudicated to
March 2-8, 08
at 3:30 PM
RECORDED
Harold Baer
USDS